

# ATTACHMENT B

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

Adv. Pro. No. 10-04539 (SMB)

THE GERALD AND BARBARA KELLER  
FAMILY TRUST,

GERALD E. KELLER, individually and in his  
capacity as Trustee of the Gerald and Barbara Keller  
Family Trust,

BARBARA KELLER, individually and in her  
capacity as Trustee of the Gerald and Barbara Keller  
Family Trust,

Defendants.

**EXPERT REPORT OF  
LISA M. COLLURA, CPA, CFE, CFF**

**Proof of Transfers  
To the Keller Family Defendants**

**June 25, 2019**

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## **I. PROFESSIONAL BACKGROUND**

1. I am a Senior Managing Director in the Forensic and Litigation Consulting practice of FTI Consulting, Inc. ("FTI"), with 25 years of experience in accounting, auditing and litigation consulting services. I specialize in providing forensic accounting and financial fraud investigative services in connection with internal investigations on behalf of trustees, boards of directors and audit committees of companies.
2. I have extensive experience in conducting large-scale, fact-finding investigations into fraudulent financial transactions, including tracing significant flows of funds between accounts and entities. During my career at FTI, I have assisted in the investigation of several of the largest fraud cases in the United States.
3. I am a Certified Public Accountant (CPA), a Certified Fraud Examiner (CFE), a member of the American Institute of Certified Public Accountants (AICPA), and am Certified in Financial Forensics (CFF) by the AICPA. My curriculum vitae, attached as **Exhibit 1** to this report, further describes my professional credentials, experience, and qualifications, including my testimony in the last four years.

## **II. SCOPE OF ASSIGNMENT**

4. Bernard L. Madoff Investment Securities LLC ("BLMIS") was an investment firm owned and operated by Bernard L. Madoff ("Madoff"). On December 11, 2008, Madoff was arrested for violating multiple securities laws in connection with running a Ponzi scheme through the investment advisory business of BLMIS (the "IA Business"). On December 15, 2008, Irving H. Picard was appointed as the Trustee for the liquidation of the business of BLMIS, and Baker & Hostetler LLP was retained as his counsel. Shortly thereafter, FTI was retained by Baker & Hostetler LLP, on behalf of the Trustee, to analyze, among other things, the financial affairs of BLMIS and to assist the Trustee with the liquidation of BLMIS. As part of our engagement, FTI was tasked with the exercise of reconstructing the books and records of

BLMIS, including all records of the cash transactions related to the BLMIS IA Business customer accounts as far back as the records allow.

5. This report should be read in conjunction with my Expert Report regarding the Reconciliation of Cash Transactions for All BLMIS Customers and Analysis of IA Business Cash Activity dated January 16, 2019 (the “Collura January 2019 Report”).<sup>1</sup>

6. For this report, I was specifically tasked with performing forensic analyses to determine the following:

- Whether the cash deposit and withdrawal transactions reflected on the customer statements for the Keller Family Defendants’<sup>2</sup> customer account at BLMIS that is at issue in this matter (the “Keller Family Account”<sup>3</sup>) reconciled to available documentation; and
- Whether, based on my review of available bank records, the cash withdrawals (*i.e.*, transfers from BLMIS) reflected on the customer statements for the Keller Family Account during the period between and including December 11, 2006 and December 11, 2008 (the “Two Year Period”) could be traced to bank accounts held by, or for the benefit of, the Keller Family Defendants.

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<sup>1</sup> My findings and conclusions rendered in the Collura January 2019 Report, along with the accompanying Exhibits to that report are all incorporated by reference herein. All capitalized terms that are defined in the Collura January 2019 Report shall have the same meaning in this report.

<sup>2</sup> The defendants in this matter are Gerald and Barbara Keller Family Trust, Gerald E. Keller and Barbara Keller (“Keller Family Defendants”). Pursuant to court order, the count(s) seeking to recover subsequent transfers from Gerald E. Keller and Barbara Keller were dismissed without prejudice. *See* Order Granting in Part and Denying in Part Defendants’ Motions to Dismiss, dated July 16, 2015, Adv. No. 10-04539 (SMB), ECF No. 39.

<sup>3</sup> The Keller Defendants maintained BLMIS customer account 1ZB314 under the name “GERALD E KELLER TSTEE GERALD E KELLER SEP PROPERTY THE GERALD & BARBARA KELLER FAMILY TRUST UA 6/2/98.” Prior to August 1999, the name on this BLMIS customer account was “GERALD KELLER” – *see* AMF00058396; AMF00058429; AMF00058473.

7. For purposes of this report, I use the term “reconciled” to indicate when I have matched, agreed and/or determined consistency between cash deposits and withdrawals reflected on BLMIS customer statements to information or data per another source (*e.g.*, amounts on BLMIS bank records, correspondence between the customer and BLMIS regarding incoming deposits and/or requests for withdrawals, or documents produced to the Trustee by the Keller Family Defendants). For purposes of this report, I use the term “traced” to indicate when I have followed the flow of funds from one bank account (*e.g.*, BLMIS’s bank account) to another bank account (*e.g.*, the Keller Family Defendants’ bank account).

8. This report has been prepared in connection with the above-captioned litigation and is to be used only for the specific purposes of this lawsuit. It is not to be used for any other purpose without the express written consent of FTI. If called upon to testify in this matter, I intend to provide testimony regarding my analyses and conclusions consistent with this report.

9. FTI is being compensated at a rate of \$670 per hour for my professional time incurred in performing the work necessary to prepare this report. FTI’s fees are not contingent on the conclusions reached in this report or the outcome of the above-captioned litigation.

### III. METHODOLOGY

10. To determine whether the cash transactions reflected on the customer statements for the Keller Family Account reconciled to available documentation, I used the results of the forensic analysis of the available BLMIS bank records as described in the Collura January 2019 Report. In addition, I reviewed and analyzed other documents and records maintained at BLMIS, including documents contained in BLMIS customer files, as well as documents produced to the Trustee by the Keller Family Defendants. Based on my review and analysis of these materials, I identified the cash transactions related to the Keller Family Account that reconciled to these documents.

11. Next, to determine whether the cash withdrawals reflected on the customer statements for the Keller Family Account during the Two Year Period could be traced to bank

accounts held by, or for the benefit of, the Keller Family Defendants, I again used the available information from BLMIS bank records. In addition, I reviewed records produced to the Trustee by a third-party financial institution, Citibank, N.A. Using these available bank records, I identified the recipients of the transfers from BLMIS.

12. The documents and data that I considered in connection with this report are listed in **Exhibit 2**. I reserve the right to supplement my report based on any additional documents or information received.

#### IV. SUMMARY OF FINDINGS

13. Based on the forensic analyses performed, as described above and throughout this report, as well as my skills, knowledge, experience, education and training that I applied to the documents and information available to me as of the date of this report, my findings are summarized as follows:

- For my reconciliation analysis, I analyzed the cash transactions in the Keller Family Account from March 1997 to December 2008. During this time period, the customer statements for the Keller Family Account reflected 29 cash deposit and withdrawal transactions. I reconciled all but one (approximately 97%) of the 29 cash transactions reflected on the customer statements for the Keller Family Account to available BLMIS bank records, documentation contained in BLMIS customer files, and/or documents produced to the Trustee by the Keller Family Defendants. I was unable to complete my reconciliation for the remaining cash deposit transaction reflected on the customer statements for the Keller Family Account due to the unavailability of records related to transactions dated before December 1998. However, based on my review of documents contained in the customer files maintained at BLMIS for the Keller Family Account, I have not found any instance of the Keller Family Defendants communicating to BLMIS any disagreement with respect to the accuracy of any cash transaction reflected on the customer statements for the Keller Family Account.

- For my tracing analysis, I analyzed the cash withdrawals from the Keller Family Account during the Two Year Period, totaling \$2,125,000. Based on available bank records from BLMIS and records produced to the Trustee by a third-party financial institution, Citibank, N.A., I traced 100% of the total amount of cash withdrawals reflected on the customer statements for the Keller Family Account during the Two Year Period to two bank accounts – one held by Keller International Publishing LLC and one held by Keller International Publishing Corp. For each transfer that I traced to these two bank accounts, the endorsement on the back of the related cancelled check from BLMIS bank records included a signature of defendant Gerald E. Keller.

## V. RECONCILIATION OF CASH TRANSACTIONS FOR THE KELLER FAMILY ACCOUNT

### A. OVERVIEW

14. The chronological listings of all cash and principal transactions for every BLMIS customer account compiled by FTI, as described in the Principal Balance Calculation Report, included the cash transactions for the Keller Family Account. From March 1997 to December 2008, the customer statements for the Keller Family Account reflected 29 cash transactions, which consisted of 3 cash deposits into the Keller Family Account totaling \$2,898,852 and 26 cash withdrawals from the Keller Family Account totaling \$4,795,000. I was tasked with reconciling these 29 cash transactions to available BLMIS bank records, documentation contained in BLMIS customer files, and/or documents produced to the Trustee by the Keller Family Defendants. *See Exhibit 3* for a list of these cash deposit and withdrawal transactions; *see also Exhibit 6* – “Reconciliation and Tracing Results – Keller Family Account.”

### B. BLMIS BANK ACCOUNTS

15. Of the 29 transactions reflected on the customer statements for the Keller Family Account, 28 of them occurred in the ten-year period for which there were available bank records for the three BLMIS bank accounts described in the Collura January 2019 Report. I reconciled



all 28 cash transactions reflected on the customer statements for the Keller Family Account during the period December 1998 to December 2008 to available BLMIS bank records, including monthly bank statements and copies of cancelled checks. The 28 cash transactions were reconciled to the BLMIS bank accounts as follows:

- 703 Account – 2 transactions (deposit via wire)
- 509 Account – 26 transactions (withdrawals via check)

16. Based on the results of my reconciliation of the cash transactions in the Keller Family Account to available BLMIS bank records, as well as the results of my Global Reconciliation as further described in the Collura January 2019 Report, I can reasonably infer that if BLMIS bank records prior to December 1998 were available to me, I would be able to reconcile the pre-December 1998 cash transaction in the Keller Family Account.

*C. BLMIS CUSTOMER FILES*

17. In addition to reconciling the cash deposit and withdrawal transactions for the Keller Family Account to the available BLMIS bank records as described above, I also reviewed customer files from BLMIS's records to identify correspondence related to the cash transactions reflected on the customer statements for the Keller Family Account.

18. Customer files related to customer accounts were maintained in BLMIS's records and were generally organized by BLMIS account number. These customer files contained documents including, but not limited to, correspondence between the customer and BLMIS employees regarding incoming deposits and/or requests for withdrawals, customer contact information, BLMIS customer agreements, as well as trust and other agreements.

19. As part of my analysis, I identified the customer file for the Keller Family Account within BLMIS's records. I reviewed the documents contained in this customer file to identify correspondence that related to the cash transactions reflected on the customer statements for the Keller Family Account. I identified letters and/or other correspondence in this customer file that support 26 of the 29 cash transactions in the Keller Family Account.<sup>4</sup> One of these letters, which is a request for a cash withdrawal from the Keller Family Account, is attached as **Exhibit 4** and is described further below:

- In a letter dated August 27, 2008, defendant Gerald E. Keller, requests, "I would like to withdraw \$150,000 from Account 1-ZB314-3."

20. Furthermore, based on my review of the documents contained in the customer file for the Keller Family Account, I have not found any instance of the Keller Family Defendants communicating to BLMIS any disagreement with respect to the accuracy of any cash transaction reflected on the customer statements for the Keller Family Account.

*D. DOCUMENTS PRODUCED TO THE TRUSTEE BY THE KELLER FAMILY DEFENDANTS*

21. As of the date of this report, the Keller Family Defendants have produced to the Trustee documents consisting of, among other things, correspondence related to the cash transactions in the Keller Family Account. I reconciled one of the cash transactions reflected on the customer statements for the Keller Family Account to these documents produced to the Trustee in this matter.

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<sup>4</sup> The three remaining cash transactions for which I was unable to identify supporting documentation in the BLMIS customer file related to the Keller Family Account were all cash deposit transactions. I identified a document to support each of the cash withdrawal transactions reflected on the customer statements for the Keller Family Account. See **Exhibit 3**.

*E. RESULTS OF RECONCILIATION*

22. In total, based on my analyses described above, I reconciled all but one (approximately 97%) of the 29 cash transactions reflected on the customer statements for the Keller Family Account to available BLMIS bank records, documentation contained in BLMIS customer files, and/or documents produced to the Trustee by the Keller Family Defendants. **Exhibit 3**, which lists each of the 29 cash transactions for the Keller Family Account, contains three columns that indicate the results of my reconciliation to each of these sources of information.

23. I was unable to complete my reconciliation for the remaining cash deposit transaction reflected on the customer statements for the Keller Family Account due to the unavailability of records related to transactions dated before December 1998. In addition, as noted above, I have not found any instance of the Keller Family Defendants communicating to BLMIS any disagreement with respect to the accuracy of any cash transaction reflected on the customer statements for the Keller Family Account.

**VI. TRACING CASH WITHDRAWALS FROM THE KELLER FAMILY ACCOUNT**

*A. OVERVIEW*

24. The available BLMIS bank records, as described in the Collura January 2019 Report, were also used to determine whether I could trace the funds that left BLMIS's bank accounts to accounts held by, or for the benefit of the Keller Family Defendants. To determine this, I performed a "Receiving Bank" analysis, which traces transfers from BLMIS's bank accounts to bank accounts that received funds from BLMIS.

25. During the Two Year Period, the customer statements for the Keller Family Account reflected 13 cash withdrawal transactions totaling \$2,125,000. These cash withdrawal transactions were in the form of checks written from the 509 Account.

26. Tracing withdrawals via check requires a legible copy of a cancelled check. The necessary information to trace the amount to a receiving bank account, including endorser,

banking institution and bank account number, is typically included on the back of a cancelled check. Oftentimes, however, not all of this information was available on the copy of the cancelled check written from the 509 Account and/or the available information was often illegible. In any event, when possible, I identified and captured all available and legible information from the cancelled checks written from the 509 Account related to withdrawals from the Keller Family Account.

27. In addition, to trace the cash withdrawals from BLMIS, I reviewed documents produced to the Trustee by Citibank, N.A.

*B. RESULTS OF TRACING*

28. **Exhibit 5** summarizes the results of my Receiving Bank analysis and my review of bank records produced to the Trustee by Citibank, N.A.<sup>5</sup> This exhibit lists the bank accounts I identified by tracing cash withdrawals from BLMIS during the Two Year Period and supports that 100% of the total dollar amount of withdrawals reflected on the customer statements for Keller Family Account during the Two Year Period went to two bank accounts – one held by Keller International Publishing LLC and one held by Keller International Publishing Corp.<sup>6</sup>

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<sup>5</sup> See also **Exhibit 6**.

<sup>6</sup> For each transfer that I traced to these two bank accounts, the endorsement on the back of the related cancelled check from BLMIS bank records included a signature of defendant Gerald E. Keller. See **Exhibit 6**.

**VII. SIGNATURE AND RIGHT TO MODIFY**

29. This report and the exhibits contained herein present my findings and the bases thereof. To the extent that any additional information is produced by any party, I reserve the right to incorporate such additional information into my report or to modify my report as necessary.

By:

A handwritten signature in cursive script that reads "Lisa M. Collura".

Lisa M. Collura, CPA, CFE, CFF  
June 25, 2019

#### VIII. LIST OF EXHIBITS

Exhibit 1: Curriculum Vitae

Exhibit 2: Documents Considered

Exhibit 3: List of All Cash Transactions in the Keller Family Account

Exhibit 4: Letter from BLMIS Customer File for the Keller Family Account

Exhibit 5: Results of Tracing Analysis – Keller Family Account (*During the Two Year Period*)

Exhibit 6: Reconciliation and Tracing Results – Keller Family Account